

**Karnataka Information Commission**  
**No.14/3, Mythic Society, Nrupathunga Road, Bangalore-560001.**

**KIC3499PTN2012**  
**(Dated 16-9-2013)**

**BETWEEN**

**UMAPATHI.S**

No.1, Kirloskar Layout, Bangalore-73.

**... Complainant.**

**And**

Secretary, Mysore Race Club Ltd., Mysore.

**... Respondent.**

**ORDER**

**Facts of the case:**

- 1) On 15-2-12 complainant sent his RTI application to the Secretary, Mysore Race Club Ltd., Mysore, requesting for –
  - (a) Certified copy of list of records duly catalogued and indexed as required to be maintained under Section 4(1)(a) of RTI Act, 2005,
  - (b) Certified copy of all information / booklet as required to be published under Section 4(1)(b) of RTI Act, 2005, wherever this information is in electronic form, the same may be furnished in the form of compact disc.
- 2) On 9-3-12 respondent Secretary, Mysore Race Club Ltd., Mysore, sent reply to complainant stating that Mysore Race Club Ltd., is not a Public Authority as defined under Section (2) of RTI Act, hence, the information solicited by complainant under Section 4(1)(a) and 4(1)(b) of RTI Act cannot be accessed by complainant.
- 3) Against this decision of Secretary, Mysore Race Club Ltd., Mysore, complainant filed complaint on 22-5-12 to the Commission under Section 18(1) of RTI Act, wherein he has stated that the Mysore Race Club Ltd., has a total area of 67,07,151 sq.ft., which is owned by the PWD and it has been leased on concessional rent for ten years from 1-4-1996, same expired on 31-3-2006, thereafter lease has not been extended, even then, Mysore Race Club Ltd., continues to be in possession of said land and hence, it is Public Authority and RTI Act is applicable to it, further requested the Commission to declare Mysore Race Club Ltd., as a Public Authority and direct the respondent to discharge duties cast under RTI Act i.e.

suo-motto disclosure of information as defined under Section 4(1)(b), appointment of PIO, First Appellate Authority, etc.

- 4) Commission issued notice to both the parties and heard the case on 5-9-12, 6-12-12, 4-3-13, 10-5-13 and 17-7-13. Both parties have filed their written submissions and supporting documents in support of their respective stand. Commission perused the same carefully.
- 5) In the written submission respondent has stated that the owner of the land is the State of Karnataka, who have leased the premises and the lease has been renewed from time to time, though there has been delay. Mere leasing of premises in favour of Private Entity, the said Private Entity, thereon, can neither partake nor will it assume the character of a Public Authority. The petitioner having been unnecessarily concerned with the internal affairs of the Company i.e. functioning of Doctrine of Indoor Management has been making attempts to make the Private Entity of the Respondent Company into a Public Entity without any substance or material. Since the Respondent Company is not a Public Authority, complainant cannot make request for information under RTI Act, etc.
- 6) Complainant in his written submission has stated that Mysore Race Club Ltd., Mysore, is engaged in Race Club Activities, it has total area of 67,07, 151 sq.ft., owned by PWD which has been leased to Mysore Race Club Ltd., on concessional rent for 10 years from 1-4-1996, though the lease period of land leased expired on 31-3-2006, it has not been extended and the lessee (MRC Ltd.) continued to hold possession of the land beyond the lease period without payment of Lease Rent. As on 31-3-2009, there was a non-realisation of Lease Rent of Rs.96.36 Crores due from MRC Ltd., these facts have been proved during the audit by Comptroller and Auditor General of India (CAG), this shows the grant of concessional rent to the MRC Ltd., which amounts to substantial finance by the State Government, hence, MRC Ltd., is a Public Authority as defined under Section 2(h) of RTI Act and it has to discharge the duties cast under RTI Act. Further, complainant has referred to the orders of Hon'ble High Court of Karnataka in the Writ Petitioner No.41386-87 of 2010 (GM-RES-PIL) dated 21-12-10, in this Order at Para.4 it is stated that during 2009-10 the Dy.Commissioner, Mysore District, has sent consenting letter to the Principal Secretary, Revenue Department, Bangalore, to renew the lease in favour of Mysore Race Club Ltd. for 10 years from 1-4-2006 on a lease rental of Rs.32,11,91,036/- per annum. The combined reading of CAG report and the rent fixed by Dy.Commissioner, Mysore District shows that MRC Ltd., has been given concession in respect of leased land. The rent MRC Ltd. paying is not based on market value of the land.
- 7) Commission perused "Memorandum and Articles of Association of Mysore Race Club Ltd., ". The relevant Articles of Association are reproduced below –

Management 30.	The Committee. The business of the Club shall be managed by the Members of the Committee, who may exercise all	
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	such powers of the Club as are not, by the Companies Act, 1956, of any statutory modification thereof for the time being in force or by the Articles required to be exercised by the Club in General Meeting, subject nevertheless to any regulations of these presents, and the provisions of the said Act, and to such regulations not being inconsistent with the aforesaid provisions or regulations as may be prescribed by the Club in General Meeting shall invalidate any prior act of the Committee which would have been valid if the regulation had not been made.	
31 (a)	The Committee shall consist of not less than THREE and not more than THIRTEEN Members of whom EIGHT shall be the Stewards of the Club. The places of Stewards shall be filled by election and nomination as provided in these Articles. The remaining FIVE Committee Members shall be elected by the Club Members in General Meeting.	Members of the Committee.
(b)	The Government of Karnataka shall be entitled to nominate TWO Stewards and to remove its nominee or nominees from that office and to appoint any other person or persons thereto from time to time. The nominee or nominees so appointed under this Clause shall not be liable to retire by rotation.	
39(1)	<p>The Committee shall have control of the funds and of all the properties of the Club; they shall also have the entire management of land control over the Race Course, Stands and Enclosures and they may make such regulation in respect thereto as they think proper.</p> <p>Without limiting the generality of the foregoing, they shall have power:</p> <ul style="list-style-type: none"> <li>(a) To appoint a Secretary and such establishment as they consider necessary for the proper management of the Club.</li> <li>(b) From time to time, at their discretion, to appoint Bankers, open Bank Accounts, raise or borrow, or secure the payments of any sum or sums of money, for the purpose of the club;</li> <li>(c) To defray all expenses in connection with the Race Meetings in Mysore and or Bangalore or any other centers where Racing is arranged by the Club; to defray all expenses on improvements to and maintenance of Race Course Stands, Enclosures, Machinery and Equipment and to provide for such prizes as may be decided upon;</li> <li>(d) To purchase, take on lease or otherwise</li> </ul>	Powers of the Committee.

	<p>acquire for the Club any property rights or privileges and at such price or rent and generally on such terms and conditions as they shall think fit;</p> <p>(e) To enter into all such negotiations and contracts, and rescind and vary all such contracts, and execute and do all such acts, deeds and things in the name and on behalf of the Club as they may consider expedient for and in relation to any of the matters aforesaid, or otherwise for the purpose of the Club;</p> <p>(f) to settle all claims by negotiation and/or refer any claims, or demands by , or against the Club to arbitration;</p> <p>(g) to authorize the Secretary or any other Officers of the Club to institute, conduct, defend, compound or abandon any legal proceedings by and against the Club or its officers, or otherwise concerning the affairs of the Club, to sign all vakalats, pleadings, petitions and application, and also to compound and allow time for payment or satisfaction of any debts due, and of any claims or demands by or against the Club;</p> <p>(h) to give monetary assistance to deserving persons and/or institutions connected with Racing or to give donations as per the provisions of the Companies Act;</p> <p>(i) to delegate any power, or authority to the Chairman and Senior Steward, Stewards of the Club, Committee Members of the Club, Officials of the Club, or any other competent person or persons as they deem fit;</p> <p>(j) to extend the privilege of using the Club House, Club Stand and Enclosures and other amenities and courtesies of the Club to persona as may be determined by the Committee.</p> <p>(k) To extend such courtesies and facilities as are found necessary to the members of the Committee and to incur necessary expenses therefor;</p> <p>(l) Subject to the provisions of Section 293(1)© of the Companies Act, 1956, to invest and deal with any of the moneys of the Club not immediately required for the purposes thereof upon securities, and in such manner as they think fit, and from time to time to vary or realize such investments.</p>	
(2)	The Members of the Managing Committee shall not lay bets directly, or indirectly, or indulge in betting	

	with the Bookmakers and Totalizators. (i) For all capital expenditure exceeding Rs.50 Lakhs for a single project, the Managing Committee shall obtain prior approval of the Members of General Meeting.	
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- 8) From the above reading, it is clear that Managing Committee has complete control over the funds, properties and other affairs of the Mysore Race Club Ltd. At present there are 13 Members in the Managing Committee, out of which 2 Stewards are government nominees. In the Annual Report and Accounts 2011-12 of Mysore Race Club Ltd. Sri.B.S.Pradeep Kumar and Sri.S.Shankar Rao have been mentioned as Government Nominated Stewards. Through these two government nominees government is exercising the control over the affairs of Mysore Race Club Ltd. and hence Mysore Race Club Ltd. is a body controlled by government.
- 9) In the Government Order No.FD.21.CRC.94 Bangalore dated 30-11-1996 it is stated that an area of 153 acres and 39 guntas of land in Sy.Nos.4 and 74 of Kurubhalli, Mysore Kasaba Hobli has been leased on lease amount of Rs.80,000/- Per Annum for the first five years from 1976-77. From 5-2-1980 lease amount was fixed as Rs.1.2 lakhs per annum for five years period, thereafter, lease rent was Rs.1.6 lakhs per annum from 5-2-1985 to 31-3-1986, from 1-4-1986 to 31-3-1991 it was Rs.1.6 lakhs per annum, from 1-4-1991 to 31-3-1996 lease amount was Rs.2 lakhs per annum, from 1996 to 2001 it was Rs.2.5 lakhs per annum and from 1-4-2001 to 31-3-2006 lease amount was Rs.2.75 lakhs per annum. From 1-4-2006 lease was not renewed till 5-3-2013 and on 5-3-13 same has been renewed vide Government Order PWD.213.BMS.2007 Bangalore dated 5-3-13 and Annual Lease amount is fixed at the rate of 2% of the Annual Gross Income of Mysore Race Club Ltd.
- 10) Commission perused Audit Report (Revenue Receipts) for the year ended 31<sup>st</sup> March 2009 of CAG referred by complainant. The relevant paras of this report is reproduced below:

**“ Audit Filings**

**System Deficiencies**

**7.2.8 Non-revision of lease rent.**

The KPWD Code envisages leasing out of Government lands and buildings to private bodies, associations, companies or individuals. Paragraph 206 thereof stipulates the following norms for fixation of annual rent in respect of lease of lands:

- a) Lease rent should be fixed based on the rates secured in the open auction.

b) In cases where auctions are not held, the rates should be fixed in consultation with the jurisdiction Dy.Commissioners with reference to those obtainable in similar localities.

c) The lease in each case should not be for more than five years at a time.

XXXXX

**7.2.82** Scrutiny of records in four test-checked divisions revealed that fixation of concessional rent while leasing Government lands/buildings for non-charitable commercial purposes in respect of four premises resulted in foregoing of revenue of Rs.630.94 crore for the period from 1 April 2003 to 31 March 2008 as mentioned below :

Sl. No.	Name of the Organization	Estent of land/ Building leased and The period of lease.	Lease rent to be released.	Amount of Lease rent Released	Revenue Forgone.
1.	Bangalore Turf Club (BTC)	3217995 sq.ft 1.1.89 to 31.12.2009	525.62	0.92	524.70
2	State Bank of India at JB Nagar Complex	4687 sq.ft 5 years from 2002 to 2006.	0.28 (1.4.03 to 31.12.06)	0.12	0.16
3.	Bhoomika interiors and Exterior decorators	2080 sq.ft 25 years from 2004	0.21	0.01	0.20
4.	Mysore Race Club Ltd (MRC)	6707151 sq.ft 10 years from 1.4.96	105.96 (1.4.03 to 31.3.06)	0.08	105.88
<b>Total</b>			<b>632.07</b>	<b>1.13</b>	<b>630.94</b>

11) From the above, it is clear that for three years the CAG estimated lease rental of Rs.105.96 crores which is about Rs.35 crores per year for Mysore Race Club Ltd. Even the Dy.Commissioner, Mysore District while recommending renewal of lease during 2009-10, he has recommended lease rental of Rs.32,11,91,036/- per annum. These two rentals are far higher than lease rentals fixed by government during the period 1976 to 2006 mentioned above vide Government Order FD.21.CRC.94 Bangalore dated 30-11-1996. From this, it is clear that substantial concession has been given by Government in leasing the said land to Mysore Race Club Ltd., which is prime land in Mysore City and this amounts to indirectly financing substantially by the Government of Karnataka.

In view of the above, it is clear that Mysore Race Club Ltd. is controlled and substantially financed by Government of Karnataka and hence, I hold that Mysore Race Club Ltd. is a Public Authority under

Section 2(h) (d) (i) & (ii) of RTI Act, 2005, and Commission directs Mysore Race Club Ltd., Mysore to appoint within 90 days PIO, APIO and FAA as required under RTI Act, 2005 to discharge the duties cast under RTI Act. After appointment of PIO, APIO and FAA, the Secretary, Mysore Race Club Ltd., Mysore, should file compliance report to the Commission within 15 days.

**The complainant is at liberty to approach the PIO of Mysore Race Club Ltd., Mysore, to be appointed, by way of fresh application under Section 6(1) of RTI Act, if desires to seek information.**

The case is adjourned to 27-1-2014 at 12.30 p.m. for receiving compliance report from the Secretary, Mysore Race Club Ltd., Mysore. The Venue is, Mythic Society, Opposite Yavanika, Nrupathunga Road, Bangalore.

Pronounced in the open Court on 16<sup>th</sup> September 2013.

**(M.R.PUJAR)**  
**STATE INFORMATION COMMISSIONER**

KIC3499PTN2012	KIC3499PTN2012
The Secretary, Mysore Race Club Ltd., Mysore.	Sri. S. Umapathi, Advocate, No.1, Tirumala Nivas, Kirloskar Layout, Hessarghatta Main Road, Bangalore-560073.
KIC3499PTN2012	
Sri.Muddappa, President, Mysore Race Club Ltd., Mysore.	